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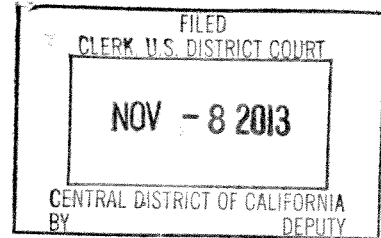
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BREVILLE USA, INC., a California
corporation,

Plaintiff,
vs.

HUROM L.S. CO., LTD, a Korean
corporation; HUROM AMERICA,
INC., a California corporation;
HUROM USA, INC., a California
corporation; and ROLAND
PRODUCTS, INC., a California
corporation

Defendants.



Case No.

CV 13-08324 - DMG (AJW)

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR FALSE
ADVERTISING IN VIOLATION OF
(1) THE LANHAM ACT (15 U.S.C.
§ 1125(a)), AND (2) CALIFORNIA'S
UNFAIR COMPETITION LAW (CAL.
BUS. & PROF. CODE § 17500, ET
SEQ.)**

JURY TRIAL DEMANDED

1 Breville USA, Inc. (“Breville”) hereby alleges as follows.

2 **INTRODUCTION**

3 1. During the last several decades, as obesity and other health problems
4 have reached record highs, many American consumers have grown more health
5 conscious. Substantial numbers of consumers have increasingly sought ways to
6 prepare and consume a greater variety of raw, unprocessed and natural food at
7 home. This trend in consumer preferences has increased the demand for kitchen
8 appliances designed to maximize the natural vitamins, minerals and other nutrients
9 that one can extract from fruits and vegetables at home.

10 2. Innovative Australian kitchen appliance maker Breville Pty. Ltd. was
11 an early pioneer of this wave with its acclaimed line of Juice Fountain® fruit and
12 vegetable juicers. Today, Juice Fountain® juicers are among the most popular fruit
13 and vegetable juicers in the world and are sold exclusively in the United States by
14 plaintiff Breville, which is Breville Pty. Ltd.’s American affiliate.

15 3. To acknowledge variations in consumer preferences, Breville’s Juice
16 Fountain® product line includes different kinds of fruit and vegetable juicers,
17 including both “centrifugal” and “masticating” juicers. Centrifugal juicers employ
18 high-speed motors that spin a mechanism that grates and grinds fruits and
19 vegetables into tiny particles, and separates juice from the pulp by the resulting
20 centrifugal force. Masticating juicers, on the other hand, employ relatively slow-
21 speed motors to drive a screw-like auger that literally squeezes juice from a fruit or
22 vegetable. Although centrifugal and masticating juicers may produce juices with
23 distinct textures, they are substitutes for and compete directly with one another.
24 Indeed, the nutritional content and yield of the juice obtained is essentially the same
25 regardless of the juicer type employed.

26 4. Defendant Hurom L.S. Co., Ltd. (“Hurom Korea”) decided to market
27 its so-called “Hurom Slow Juicers,” a competing line of masticating juicers, by
28 advertising the false and misleading claim that these masticating juicers extract and

1 preserve more vitamins, minerals, enzymes and other nutrients than competitive
2 centrifugal juicers, and that they do so more quickly and efficiently.¹

3 5. This marketing campaign has increasingly and progressively become
4 the centerpiece of an anticompetitive effort to portray the supposed superiority of
5 the Hurom Slow Juicers in a way that is both false and misleading. It bears noting
6 that this campaign has coincided with the growing placement and availability of the
7 Hurom Slow Juicers in hundreds of retail and on-line outlets across the country,
8 including throughout California. The false and misleading claims about the Hurom
9 Slow Juicers have thus allowed the Defendants to enjoy unjustly inflated market
10 share and profits at the expense of manufacturers and distributors of centrifugal
11 juicers, particularly a market leader like Breville.

12 **JURISDICTION AND VENUE**

13 6. The Court has jurisdiction over the subject matter of this Complaint
14 because it includes a claim of false advertising under the Lanham Act, 15 U.S.C.
15 §§1051, *et seq.*, including 15 U.S.C. §1121, which expressly provides that claims
16 arising thereunder are subject to federal subject matter jurisdiction. This Court also
17 has subject matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1338.

18 7. Venue is proper in this District pursuant to 28 U.S.C. §1391(a) because
19 a substantial part of the events or omissions giving rise to Plaintiff Breville's claims
20 occurred in this District and because defendants Hurom America, Inc., Hurom
21 USA, Inc. and Roland Products, Inc., each have their principal places of business in
22 this District.

23 //

24 //

25
26 ¹ The term "Hurom Slow Juicers" in this Complaint refers collectively to the Hurom-brand Slow
27 Squeeze Juicer (HJ Series), Original Slow Juicer (HU-100 Series), Hurom Premium Slow Juicer
28 (HU Series), Slow Juicer for 110V Cold Press Juicer (HE Series), Fresh Press Juicer (JP Series),
Premium Slow Juicer / Smoothie Maker (HH and HG Series) and other models sold under the
name "Hurom Slow Juicers." Breville adopts Hurom's use of the term "Hurom Slow Juicers" to
refer to this product line.

PARTIES

8. Plaintiff Breville is a corporation organized under the laws of the State of California, having its principal place of business in Torrance, California. Breville is the exclusive distributor in the United States of Breville®-branded kitchen appliances, including the Breville Juice Fountain® line of high-speed, centrifugal and masticating juicers.

9. Defendant Hurom Korea is a Korean corporation with its principal place of business in Gimhae City, Republic of Korea. Hurom Korea manufactures Hurom Slow Juicers in Korea and distributes them around the world, including in the United States through defendants Hurom USA, Inc. (“Hurom USA”), Hurom America, Inc. (“Hurom America”) and Roland Products, Inc. (“Roland” or, collectively with Hurom Korea, Hurom USA and Hurom America, simply “Hurom”). Breville is informed and believes based on the interrelationship between these companies and their apparent concerted enterprise that Hurom Korea directs and controls the marketing of the Hurom Slow Juicers and is ultimately responsible for the content of the advertisements that are the subject of this Complaint.

10. Defendant Hurom USA is a California corporation. Breville is informed and believes that Hurom USA has its principal place of business in Torrance, California and that it acts as a corporate agent and marketing agent for Hurom Korea in California as well as a distributor of the Hurom Slow Juicers in California and the United States. Hurom USA is listed as the “Corporate office” for Hurom Korea in the United States on Hurom Korea’s website.²

11. Defendant Hurom America is a California corporation. Breville is informed and believes that Hurom America has its principal place of business in Los Angeles, California and that it acts as a corporate agent and marketing agent for

² http://www.hurom-slowjuicer.com/eng/company_3.html.

1 Hurom Korea in California as well as a distributor of the Hurom Slow Juicers in
2 California and the United States.

3 12. Defendant Roland is a California corporation with its principal place
4 of business in Los Angeles, California. Roland acts as a distributor and marketing
5 agent of the Hurom Slow Juicers in California and the United States. On its
6 website, Roland claims to be “the North American Distributor for Hurom.”³

7 **FACTUAL BACKGROUND**

8 13. Breville is the exclusive United States distributor of Breville®-branded
9 small kitchen electrics and appliances, such as espresso machines, toasters,
10 breadmakers, and food processors as well as centrifugal fruit and vegetable juicers,
11 which are at the center of this controversy. The Breville® brand is considered one
12 of the most premium and innovative kitchen electrics and appliance brands in the
13 world.

14 14. Breville’s best-selling products include its market leading Juice
15 Fountain® line of high-speed, centrifugal fruit and vegetable juicers. First
16 introduced in the United States in 2003, Breville has sold over 2.3 million Juice
17 Fountain® centrifugal juicers in the United States, and the Breville® brand is
18 considered synonymous with high quality fruit and vegetable juicers both in
19 America and throughout the world.

20 15. Defendant Hurom Korea markets the Hurom Slow Juicers in the
21 United States through defendants Hurom America, Hurom USA and Roland, which
22 act as distributors and/or advertisers of the Hurom Slow Juicers. The Hurom Slow
23 Juicers are sold at hundreds of retail establishments across the United States,
24 including over 100 sites within California and several dozen sites in this District.

25 16. Hurom Korea introduced the Hurom Slow Juicers in the United States
26 market in or around 2010. At some point after Hurom Korea began selling the
27 Hurom Slow Juicers in the United States, Hurom began a campaign of false

28 ³ <http://www.slowjuicer.com/contactus-4.html>.

1 advertising apparently intended to deceive consumers into believing that the Hurom
2 Slow Juicers offer nutritional and economic benefits that are not found in
3 competing centrifugal juicers.

4 17. As discussed in further detail below, Hurom's advertising campaign
5 relies extensively on false or misleading claims that Hurom Slow Juicers are more
6 effective at extracting nutrients, that they preserve nutrients better than centrifugal
7 juicers, and that Hurom Slow Juicers are more efficient than centrifugal juicers
8 because they extract more juice from the same amount of fruit or vegetable juicers
9 in less time.

10 18. Hurom's false advertising campaign is carried out on various media,
11 including, among other places, the following Hurom websites:

- 12 • www.hurom-slowjuicer.com (hereinafter, the "Hurom Korea
13 Website"), which Breville is informed and believes is operated by
14 defendant Hurom Korea;
- 15 • www.usa.hurom.com (hereinafter, the "Hurom America Website"),
16 which Breville is informed and believes is operated by defendants
17 Hurom America and Hurom USA under the direction of Hurom Korea;
18 and
- 19 • www.slowjuicer.com (hereinafter, the "Slow Juicer Website"), which
20 Breville is informed and believes is operated by defendant Roland
21 under the direction of Hurom Korea.

22 The Hurom Korea Website, the Hurom America Website and the Slow Juicer
23 Website are referred to collectively as "the Websites." Breville is informed and
24 believes that the content of the Websites is under the common control of Hurom.

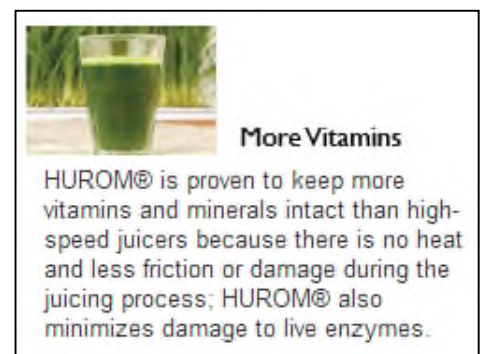
25 19. Hurom has also advertised the Hurom Slow Juicers through video
26 advertisements available on YouTube and other video websites, through product
27 brochures and on the actual packaging of the product itself. Hurom's false or
28 misleading claims about the qualities of its Hurom Slow Juicers are then regularly

1 repeated by third-party retailers and on-line distributors of the Hurom Slow Juicers
 2 in their own advertisements, which often adopt Hurom's false claims verbatim. As
 3 a result, Hurom's false or misleading claims have now become widely adopted by
 4 consumers of juicers—including both the retail and online outlets that make
 5 decisions about which products to promote and sell, as well as the ultimate end-
 6 using consumers of such fruit and vegetable juicers.

7 *Hurom Falsely Claims Juice Made With Hurom Slow Juicers Has*
 8 *Higher Nutrient Content*

9 20. A central tenet of Hurom's false advertising campaign is the notion
 10 that that the "slow juicing" technology embodied in the Hurom Slow Juicers is
 11 significantly better than centrifugal juicers at extracting or preserving vitamins,
 12 minerals, enzymes and phytonutrients. This is false. The truth is that juice
 13 extracted using the Hurom Slow Juicer is comparable in nutrient concentration to
 14 juices extracted with centrifugal juicers.


15 21. By way of illustration, on the Slow Juicer Website
 16 (www.slowjuicer.com), Hurom repeatedly and falsely claims that the Hurom Slow
 17 Juicers are superior because their juicing
 18 technique, unlike that of centrifugal juicers, "is
 19 proven to keep more vitamins and minerals
 20 intact . . . because there is no heat and less
 21 friction or damage during the juicing process."
 22 Hurom likewise repeatedly and falsely claims
 23 that the Hurom Slow Juicers is superior
 24 because it releases "deep-seated nutrients and enzymes" and "breaks up more of the
 25 phytonutrients, resulting in a richer colored juice that retains more vitamins and
 26 minerals." Hurom further claims that, unlike centrifugal juicers, the Hurom Slow
 27 Juicers "eliminat[e] oxidation," which "preserves the precious enzymes and
 28



Example of nutritional claims made on Slow Juicer website.

1 nutrients that are closest to its natural form.”⁴ According to Hurom’s false
 2 advertising, the Hurom Slow Juicers “extract[] the most flavor and nutrients from
 3 any kind of fruit or vegetable.”⁵

4 22. To support its spurious claims that the Hurom Slow Juicers make
 5 nutritionally superior juice, the Slow Juicer Website purports to cite “nutritional
 6 tests” that are “approved and certified” by both the United States Food and Drug
 7 Administration and the United States Department of Agriculture. According to the
 8 Slow Juicer Website, these tests show that juice made with the Hurom Slow Juicers
 9 has significantly higher concentrations of both Vitamin C and Vitamin A:⁶

Nutritional Tests		
Nutrition Test: Vitamin C & A, Juice Volume		
Hurom Slow Juicer VS Tradition Juicer		
Vitamin C	Vitamin A	Juice Volume*
HUROM extracts 42.7% more Vitamin C	HUROM extracts 60.7% more Vitamin A	Hurom extracts 35% more juice
93.35mg/serving > 53.51mg/serving	318mg/serving > 125mg/serving	8 fl oz > 5.2 fl oz
HUROM SLOW JUICER Tradition Juicer	HUROM SLOW JUICER Tradition Juicer	HUROM SLOW JUICER Tradition Juicer
*Hurom maximizes juice output by gently pressing the food twice: once in the crushing stage, and again in the second pressing stage before pulp is ejected. The Traditional Juicer expels much of the food before even extracting the juice because of the high-speed motor.		
Test results are from  Michelson Laboratories, Inc., Korean Food Research Institute (KRFI), and internal labs.		
The tests performed by Michelson Laboratories, Inc. are approved and certified by:		
<ul style="list-style-type: none"> • ISO/IEC17025 accredited laboratory through A2LA (International Organization for Standardization/ International Electrotechnical commission) • USDA (United States Department of Agriculture) • FDA (US Food & Drug Administration) • USDA National Nutrient Database 		

21 These claims on the Slow Juicer Website are literally false and misleading.

22 23. The Hurom America Website (www.usa.hurom.com) makes similar,
 23 false claims about the Hurom Slow Juicer’s ability to extract juice with higher
 24 concentrations of vitamins minerals and other nutrients.

25 //

26 //

27 ⁴ <http://www.slowjuicer.com/slowjuicer-1.html>


28 ⁵ <http://www.slowjuicer.com/slowjuicer-2.html>

⁶ <http://www.slowjuicer.com/slowjuicer-4.html>

24. Like the Slow Juicer Website, the Hurom America Website also states unequivocally that juice made with the Hurom Slow Juicers contains significantly more Vitamin C and Vitamin A than those juices made with centrifugal juicers.⁷ These claims are also literally false and misleading.

Nutrition

Compared to traditional juicers, the Hurom Slow Juicer extracts **42.7% more vitamin C**, **60.7% more vitamin A**, and **35% more juice**. In our Nutrition Lab, located at international headquarters in Korea, we continue to compare, analyze and perfect the quality of juice our products provide.



Comparison	Hurom Slow Juicer	High-Speed Juicer
Vitamin C	93.35 mg/serving 42% more vitamin C	63.51 mg/serving
Vitamin A	318 mg/serving 60% more vitamin A	125 mg/serving
Juice Volume*	8 fl oz 35% more vitamin C	5.2 fl oz

Illustration from Hurom America Website

25. The Hurom America Website makes numerous other literally false or misleading statements regarding the purported health benefits of using the Hurom Slow Juicers including:

- That the Hurom Slow Juicers (in contrast to other juicers) “keep[] juice at a low temperature to retain vital nutrients.”⁸
- That the Hurom Slow Juicer’s complete lack of “shock, less friction and low temperatures result in less oxidation and separation.”⁹
- That the Hurom Slow Juicer’s “slow squeezing unlocks more goodness – from beneficial enzymes to phytonutrients.”¹⁰
- That the Hurom Slow Juicers “extract[] the most flavor and nutrients from any kind of fruit or vegetable.”¹¹
- That the Hurom Slow Juicers produce “more juice, more vitamins, more value.”¹²

⁷ <http://usa.hurom.com/nutrition>.

⁸ <http://usa.hurom.com/juicing-technology>.

⁹ <http://usa.hurom.com/juicing-technology>.

¹⁰ <http://usa.hurom.com/juicing-technology>.

¹¹ <http://usa.hurom.com/comparison-to-juicers>.

¹² <http://usa.hurom.com/comparison-to-juicers>.

- That Hurom's nutrition claims are subject to extensive, rigorous "tests and analysis" at Hurom's own "top-notch nutrition lab."¹³

26. The Hurom Website (www.hurom-slowjuicer.com) contains similar false or misleading claims about the purported health benefits of juice made with the Hurom Slow Juicers. Like the other Websites, the Hurom Website falsely claims that the Hurom Slow Juicers produce juice from fruit and vegetables with substantially more nutrients than centrifugal juicers. For example, in explaining the benefits of the Hurom Slow Juicers, Hurom falsely claims that "Low Speed Squeeze Juice contains 5 times more vitamin C than high speed juicer."¹⁴

27. Hurom also engages in false advertising through the use of videos produced by Hurom and made available to the public for viewing on video sites like YouTube. These video advertisements repeat Hurom's literally false and misleading claims that the Hurom Slow Juicers provide significant nutritional benefits over centrifugal juicers. By way of example, videos produced by Hurom claim:

- "Hurom's slow squeezing system, in contrast [to centrifugal juicers] does not cause friction or impact to the raw ingredients, and *voila*, the result: a glass of juice rich in natural flavors as well as nutrients."¹⁵
- Centrifugal juicers introduce "air bubbles" that purportedly "accelerate the oxidation process."¹⁶
- The Hurom Slow Juicers "do[] not damage the raw ingredients with frictional heat."¹⁷

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¹³ <http://usa.hurom.com/development-and-testing>.

¹⁴ <http://www.hurom-slowjuicer.com/eng/juicer.html>.

¹⁵ <http://www.youtube.com/watch?v=frcmsMnzgms> at 2:09.

¹⁶ <http://www.youtube.com/watch?v=frcmsMnzgms> at 2:21.

¹⁷ <http://www.youtube.com/watch?v=XXTEPUggyuw> at 0:29.

- There is “frictional heat” and “impact” caused by centrifugal juicers which “makes juice lose its natural and rich taste, flavor, nutrients and color.”¹⁸
- Using the Hurom Slow Juicers results in “juice with 5 times more vitamins then (sic) a standard juicer.”¹⁹

Like the claims on the Websites, the claims in these video advertisements are false and are intended to deceive consumers into believing that juice made with a Hurom Slow Juicers contains considerably more nutrients than juice made using centrifugal juicers, thereby affecting their ultimate product purchase and informing their buying decisions.

28. Hurom makes similar claims on its product packaging, which is displayed to consumers at retail locations through the physical point of sale merchandise and product displays. For example, the Hurom Slow Juicers’ box²⁰ is printed to include the following:

- The Hurom Slow Juicers are “proven to keep more vitamins and minerals intact than high-speed juicers because there is no heat and less friction and damage during the juicing process.”
- The Hurom Slow Juicers method “keeps more vitamins than with other juicers.”
- The Hurom Slow Juicers “slowly and gently press[] the juice keeping more of the super nutritious enzymes, minerals and vitamins alive and well.”
- “The unique Hurom Slow Squeezing System extracts the most nutrients, enzymes and flavors from fruit, vegetables and leafy greens.”

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¹⁸ <http://www.youtube.com/watch?v=XXTEPUggyuw> at 1:51.

¹⁹ <http://www.youtube.com/watch?v=XXTEPUggyuw> at 3:29.

²⁰ Packaging for HH-WBB07 Hurom Premium Slow Juicer / Smoothie Maker.

29. Hurom's numerous, detailed claims that Hurom Slow Juicers are more effective than centrifugal juicers in extracting vitamins, minerals, enzymes and/or phytonutrients are literally false and misleading. The nutritional content of juice made using the Hurom Slow Juicers is about the same for most commonly juiced fruits and vegetables as juice made with centrifugal juicers. Moreover, actual testing discloses that the juice produced using the Hurom Slow Juicers often contains fewer nutrients than juice made using centrifugal juicers, contrary to Hurom's claims.

30. Hurom's claims that nutrients are somehow destroyed in any significant amount in juice made using a centrifugal juicer are also literally false and misleading. There is no scientific support for Hurom's baseless claims that the "frictional heat," "impact" or "oxidation" from centrifugal juicing significantly compromises the nutritional properties of fruit or vegetable juice made with centrifugal juicers as compared to the Hurom Slow Juicers.

31. Hurom is aware that the target demographic market for fruit and vegetable juicers consists of consumers who are highly health conscious. Accordingly, Breville is informed and believes that Hurom embarked on its literally false and misleading advertising campaign with the willful intent to mislead and deceive consumers into believing that the Hurom Slow Juicers would provide health and nutritional benefits superior to those of centrifugal juicers, such as Breville's Juice Fountain® line, and thereby falsely justify a retail price substantially higher than is typical for most centrifugal juicers.

*Hurom Falsely Claims that Hurom Slow Juicers Make Juice Faster
Than High-Speed Centrifugal Juicers*

32. As an additional anticompetitive marketing ploy, the Websites and other advertising materials produced by Hurom claim that the Hurom Slow Juicers ironically produce juice faster than most higher-speed juicers. For example, on the Slow Juicer Website, Hurom states: "[D]on't let the name fool you. The Slow

1 Juicer actually juices faster than most typical juicers” Hurom makes identical
 2 claims in its users’ manuals in providing an overview of the benefits of using the
 3 Hurom Slow Juicers.

4 33. To add a false patina of factual support for this claim, Hurom has
 5 published numerous advertising videos purporting to show the Hurom Slow Juicers
 6 being operated and compared to a competitive centrifugal juicer.²¹ The
 7 demonstrations in these videos, however, appear to be intentionally manipulated
 8 such that the operator of the comparison juicer appears to be trying to minimize the
 9 juice output through the operator’s actions, rather than any inherent function or
 10 design.

11 34. Contrary to Hurom’s false claims, when used appropriately, centrifugal
 12 juicers are typically much faster at extracting juice than the Hurom Slow Juicers.
 13 Based on these facts, Breville is informed and believes that Hurom is aware that the
 14 Hurom Slow Juicers are not superior in speed to “typical” juicers, and intentionally
 15 or recklessly advertises a contrary false statement to overcome potential consumer
 16 perceptions that a “slow” juicer will produce juice more slowly and therefore will
 17 be less convenient to use than centrifugal juicers.

18 *Hurom Falsely Claims That Users of Hurom Slow Juicers Enjoy Higher Juice*
 19 *Yields*

20 35. Literally false and misleading claims that the Hurom Slow Juicers
 21 provides “more juice” than centrifugal juicers also figure prominently in Hurom’s
 22 advertising.

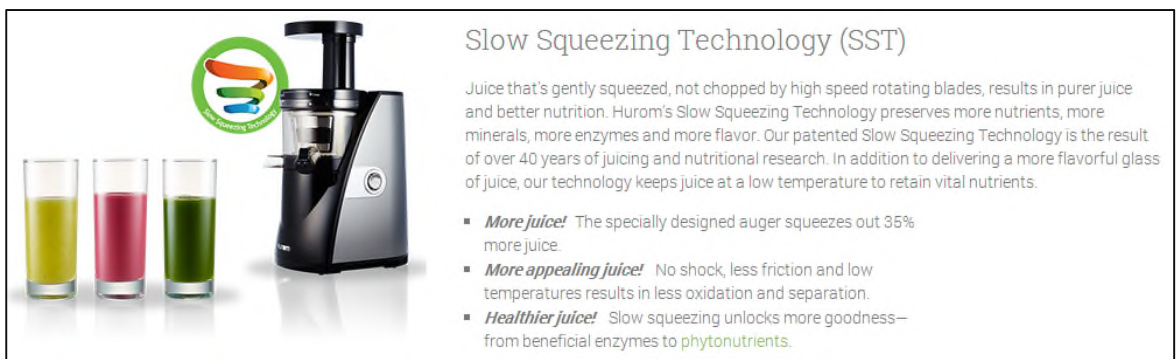
23 36. Hurom asserts repeatedly on the Websites that the Hurom Slow Juicers
 24 provide higher juice yield than competitors’ juicers. For example, the Slow Juicer
 25 Website makes general claims that the Hurom Slow Juicers “expel[] significantly
 26 more juice from the same foods, with much drier pulp”²² and “extract the most

27 ²¹ For example, the video at <http://www.youtube.com/watch?v=RGqeXrCMFHA> purports to
 28 show a side-by-side comparison of the Hurom juicer with a centrifugal juicer.

²² <http://www.slowjuicer.com/slowjuicer-1.html>.

1 juice using the least amount of food, saving on grocery bills.”²³ According to
 2 Hurom, the Hurom Slow Juicers “extract[] 35% more juice” than the “traditional”
 3 centrifugal juicer because the “Traditional Juicer expels much of the food before
 4 even extracting the juice because of the high-speed motor.”²⁴

5 37. A similar claim appears on Hurom America Website where Hurom
 6 states that Hurom Slow Juicer’s “specially designed auger squeezes out 35% more
 7 juice” (alongside its familiar claims of superior nutrition):²⁵



14 38. Hurom also claims on the Hurom Slow Juicer’s product packaging that
 15 its “cold pressing” and “squeezing” method “yields significantly more juice [and]
 16 drier pulp.” The opposite side of the packaging reiterates, “You get more juice out
 17 of a Hurom® due to its patented dual-stage “Slow Squeezing System” that works
 18 like a mortar and pestle.”²⁶

19 39. Hurom has made similar claims in its video advertisements, in product
 20 brochures and in instruction manuals. Hurom has also made these or similar claims
 21 to retailers and resellers of the Hurom Slow Juicers, and retailers and resellers have
 22 then repeated such claims in their own advertising of the Hurom Slow Juicers.

23 40. Hurom’s unqualified claims that its juicer yields “35% more juice” or
 24 “significantly more” than other juicers or “the most juice” are literally false and
 25 misleading. It is well known that different types of juicers yield more or less juice
 26

27 ²³ <http://www.slowjuicer.com/slowjuicer-2.html>.

28 ²⁴ <http://www.slowjuicer.com/slowjuicer-4.html>.

²⁵ <http://usa.hurom.com/juicing-technology>.

²⁶ Packaging for HH-WBB07 Premium Slow Juicer / Smoothie Maker.

1 than other types depending on the fruit or vegetable being juiced. Nonetheless, any
 2 such differences are marginal at best and are not significant, being nowhere near the
 3 35% difference claimed by Hurom.

4 41. Breville is informed and believes that Hurom intentionally
 5 misrepresents its juice yield in order to divert sales away from typical centrifugal
 6 juicers while justifying the substantially higher retail price charged for the Hurom
 7 Slow Juicers compared to typical centrifugal juicers.

8 **FIRST CLAIM FOR RELIEF**

9 **VIOLATIONS OF SECTION 43(A) OF THE LANHAM ACT – FALSE ADVERTISING** 10 **AGAINST ALL DEFENDANTS**

11 42. Plaintiffs reallege and incorporate by this reference each and every
 12 allegation contained in paragraphs 1 through 41 above as if set forth in full here.

13 43. Hurom has made and continues to make literally false and/or
 14 misleading representations of fact in their advertising and/or promotion in
 15 commerce regarding the Hurom Slow Juicers. Hurom has acted in concert in
 16 carrying out this scheme to falsely and misleadingly advertise the qualities of the
 17 Hurom Slow Juicers, and each of Hurom Korea, Hurom USA, Hurom America and
 18 Roland have also separately engaged in conduct in furtherance of their common
 19 plan and scheme to mislead consumers. These defendants have individually and
 20 collectively assisted in, authorized, participated, ratified and adopted the advertising
 21 campaign, with the anticipation and knowledge that such marketing efforts are false
 22 and misleading.

23 44. As detailed above, Hurom has repeatedly and consistently advertised
 24 Hurom Slow Juicers as superior to other juicers because they purportedly produce
 25 juice with more vitamins, minerals, enzymes and phytonutrients than juice made
 26 with other types of juicers. These advertisements are either literally false or
 27 misleading.

28 //

1 45. Hurom has repeatedly advertised Hurom Slow Juicers as superior to
2 centrifugal juicers because centrifugal juicers somehow destroy nutrients in juice
3 either through oxidation or “frictional heat.” These advertisements are either
4 literally false or misleading because there is no conclusive evidence that centrifugal
5 juicers damage nutrients or cause oxidation at a level significantly different from
6 the Hurom Slow Juicers.

7 46. Hurom has repeatedly and consistently advertised to consumers that
8 the Hurom Slow Juicers extract juice more quickly than competing juicers. These
9 advertisements are either literally false or misleading because juice extraction rates
10 are often better or comparable using a centrifugal juicer.

11 47. Hurom has repeatedly and consistently advertised to consumers that
12 the Hurom Slow Juicers produce “35% more” juice than other juicers, that it
13 produces “significantly more juice” than other juicers and that it produces “the most
14 juice.” These advertisements are either literally false or misleading as the yield of
15 most fruits is comparable whether one is using one of the Hurom Slow Juicers or a
16 centrifugal juicer.

17 48. Hurom has engaged in the false advertising detailed above with the
18 knowledge or in reckless disregard of the fact that such claims are literally false or
19 misleading, because Hurom is more concerned with obtaining any competitive
20 advantage—even one that is illegal and unfair—against manufacturers and
21 distributors of other types of juicers, including Breville and its market leading Juice
22 Fountain® line of centrifugal juicers.

23 49. Hurom’s literally false and/or misleading representations of fact
24 violate Section 43(a) of the Lanham Act (15 U.S.C. §1125(a)). Hurom has made
25 and is making these false and/or misleading representations of fact in interstate
26 commercial advertising and/or promotion—in this District and elsewhere—and the
27 effects of Hurom’s acts throughout the United States are intended to effect the
28 market in this District and elsewhere.

6 51. Because Hurom has made and continues to make literally false and/or
7 misleading representations of fact about the Hurom Slow Juicers in—at best
8 reckless and at worst intentional—disregard of their falsity and/or misleading
9 nature, Breville is entitled to an award of enhanced damages under Section 35(a) of
10 the Lanham Act (15 U.S.C. §1117(a)). Moreover, this is an exceptional case for
11 which the Court should award Breville its reasonable attorneys’ fees.

SECOND CLAIM FOR RELIEF

53. Breville realleges and incorporates by this reference each and every allegation contained in paragraphs 1 through 52 above as if set forth in full here.

28 //

1 55. Hurom has engaged in these unfair, unlawful, and deceptive activities
2 within the State of California.

3 56. Hurom's false and misleading statements are material to all consumers
4 of fruit and vegetable juicers (including both the retail and online outlets that resell
5 juicers to the consuming public and those members of the consuming public that
6 are the ultimate end-users) and are likely to influence—and have influenced—their
7 decisions of which fruit or vegetable juicer to purchase. False statements, express
8 or implied, that the Hurom Slow Juicers deliver nutritionally superior juice than
9 competing juicers, juice more quickly than competing juicers and produce
10 significantly more juice are likely to deceive a substantial segment of consumers
11 who are considering a purchase of a fruit or vegetable juicer.

12 57. As a direct and proximate result of Hurom's wrongful acts, Breville
13 has suffered an injury-in-fact, having lost sales of its centrifugal juicer products to
14 Hurom.

15 58. Hurom's activities have caused and will cause irreparable harm to
16 Breville for which it has no adequate remedy at law. In particular, Hurom's past
17 and continuing false and/or misleading representations of fact, as alleged above, are
18 causing irreparable harm, continuing to the foreseeable future, and are a serious and
19 unmitigated hardship. Breville will continue to suffer irreparable injury to its
20 goodwill, rights and businesses unless and until Hurom and any others in active
21 concert with Hurom are enjoined from continuing its wrongful acts.

22 **PRAYER**

23 WHEREFORE, Breville prays for judgment against Hurom, and each of
24 Hurom Korea, Hurom USA, Hurom America and Roland, as follows:

25 a. That the Court enjoin Hurom from continuing to make false and/or
26 misleading representations of fact about the Hurom Slow Juicers;

27 b. That Hurom pay Breville its damages for the harms it has suffered and
28 continue to suffer as a result of Hurom's false and/or misleading advertising,

1 promotion and/or marketing, reflecting a disgorgement of illicit gains from such
2 advertising, promotion and/or marketing, and providing a corrective advertising
3 award as permitted by law;

4 c. That this Court award Breville three times any damages award
5 pursuant to 15 U.S.C. §1117;

6 d. That this case be found to be exceptional within the meaning of 15
7 U.S.C. §1117;

8 e. That the Court award Breville its costs and expenses of suit, including
9 all reasonable attorneys' fees they have incurred and will incur in this matter;

10 f. That the Court award Breville prejudgment and post-judgment interest;
11 and

12 g. That the Court grant Breville such other and further relief as the Court
13 deems just and proper.

14
15 **DEMAND FOR JURY TRIAL**

16 Breville hereby demands a trial by jury as to all issues so triable.

17 November 8, 2013

Respectfully submitted,

18 SQUIRE SANDERS (US) LLP

19 By: 

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23 BREVILLE USA, INC.